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Howard — In Memoriam: Jacob M. Howard.

where he was admitted to the bar in the following year. In 1835 he was married to Miss Catherine A. Shaw,—a kinswoman of Chief-Justice Lemuel Shaw whose mother was a Howard,—whose acquaintance he had formed at Ware, and who, beloved by all who knew her, departed this life in 1866, leaving two daughters and three sons surviving her.

In his professional career, Mr. Howard was ever faithful to the interests of his clients, bringing to their service great industry, a mind well-stored with legal learning, much native sagacity and force of logic.

In 1835, he was a Whig candidate for a seat in the convention to form a State Constitution, but was not elected.

In the controversy of 1834 and 1835 between the Territory and Ohio, respecting a tier of townships which had ever belonged to Michigan, on her southern border, embracing the present city of Toledo, Mr. Howard took strong ground against the claim of Ohio; and, having employed his pen in repelling it, finally, when Mr. Mason, the territorial governor, thought it necessary to employ military force against a similar force from Ohio, Mr. Howard volunteered, and proceeded with arms to make good the arguments he had advanced. The expedition was, however, productive only of wasteful expenditure to the Territory, and a large slaughter of pigs and poultry.

In 1838, Mr. Howard was a member of the State Legislature, and took an active part in the enactment of the code known as the Revised Laws of that year; in the railroad legislation of the State; and in examining into the condition of the brood of "free banks", known as "wildcat banks", that had come into pernicious existence under the free-banking system enacted the year before. This examination developed such a scene of fraud and corruption in the local currency of the State, that the paper of

those banks soon lost all credit; and the State Supreme Court, as soon as the question was fairly brought before it, adjudged them to be all unconstitutional and void; a decision in which the community most heartily acquiesced.

In the presidential canvass of 1840, which resulted in the election of General Harrison, Mr. Howard was a candidate for Congress, and was elected by 1,500 majority. During the three sessions of the Twenty-Seventh Congress he engaged seldom in debate, but was an attentive observer of the scenes which passed before him. His feelings and opinions had ever been against slavery, its influences, its crimes, its power. John Quincy Adams and Joshua R. Giddings, both members of the House, championed the anti-slavery cause. Henry A. Wise, Mr. Gilmer, and Mr. Mallory, of Virginia, and Thomas F. Marshall, of Kentucky, were the leading combatants on the other side. The conflict, which occupied a large portion of that Congress, was fierce and fiery.

With what interest did Mr. Howard, then a new member and a young man, drink in the words of the "Old Man Eloquent", * as he unfolded his mighty argument against the "sum of all villainies", and the dangers it menaced to the liberties of our country! He left that Congress with the full conviction that the final solution of the great question would be a civil war, though hoping that some measure might be devised less radical and terrible, that should calm the deeply-stirred passions of the people. He remained steadfastly attached to the Whig party, and in the presidential canvasses of 1844, 1848, and 1852, exerted himself to promote the election of Mr. Clay, General Taylor, and General Scott.

In the trial of a slave case, under the fugitive slave act of 1850, in the United States Circuit Court,

*John Quincy Adams.

before Judge McLean, he denounced that Act as a defiance, a challenge to the conflict of arms by the South to the North, and predicted that sooner or later it would be accepted; and characterized its author (Mr. Mason, of Virginia,) as an enemy of his country and a traitor to the Union.

On the defeat of General Scott, he resolved to withdraw entirely from politics: but on the passage of the Act of 1854, repealing the Missouri Compromise, he again entered the political arena in resistance to that flagrant encroachment of the slave power. He was among those who took the earliest steps to effect an organization for the overthrow of the Democratic Party of the North, which had become the willing ally of the pro-slavery or secession party of the South. He saw that such a party must embrace all the elements of popular opposition to the principles and aims of the slaveholders. The old Whig Party, never as a party having made its influence felt in opposition to those principles and aims, had become powerless as an agency whereby to combat them—or even to move the hearts of the people. Yet by far the greater portion of its members in the free states were in sentiment opposed to the schemes of the slave power, now too manifest to be misapprehended or viewed with indifference.

To count upon this portion of the Whig Party was obvious. The great end to be obtained was a firm and cordial union of this with two other elements, the old Abolition Party proper, and the "Free Soil Democracy." In Michigan, these last two had already coalesced and had put in nomination a State ticket, at the head of which was the name of Hon. Kinsley S. Bingham as their candidate for Governor.

A call, numerously signed, was issued, inviting all freemen of the State, opposed to the recent measures of Congress on the subject of Slavery, to assemble at JACKSON, (MICHIGAN,) on the 6th of JULY (1854).

The assemblage was numerous, and the utmost harmony and good feeling prevailed. "Whigs", "Abolitionists", "Free Soilers", and "Liberty Men", met and shook hands like a band of brothers. A deep seriousness pervaded the whole, and a pre-science of the events soon to develop themselves, seemed to teach them that this was the "beginning of the end" of slavery.

MR. HOWARD WAS THE SOLE AUTHOR OF THE SERIES OF RESOLUTIONS THAT WERE ADOPTED. THEY STRONGLY DENOUNCED SLAVERY AS A MORAL, SOCIAL AND POLITICAL EVIL, AS A SOURCE OF NATIONAL WEAKNESS AND ENDLESS INTERNAL STRIFE; THEY CONDEMNED THE REPEAL OF THE MISSOURI COMPROMISE AND THE CONSEQUENT OPENING OF ALL NEW TERRITORIES TO SLAVERY; THEY ENCOURAGED IN NO EQUIVOCAL TERMS THE FREE SETTLERS OF KANSAS TO RESIST THE TYRANNY AND OUTRAGES WITH WHICH THE SLAVE POWER WAS SEEKING TO CRUSH THEM. THEY WENT FURTHER,—THEY DEMANDED, NOT THE RESTORATION OF THAT COMPROMISE, BUT, AS AN INDEMNITY FOR THE FUTURE, AS JUST AND NECESSARY SAFEGUARDS AGAINST THE GRASPING AMBITION OF SLAVEHOLDERS, THE BANISHMENT OF SLAVERY BY LAW, FROM ALL THE TERRITORIES OF THE UNITED STATES, FROM THE DISTRICT OF COLUMBIA, AND ALL OTHER PLACES OWNED BY THE GOVERNMENT. THEY INVOKED THE CORDIAL CO-OPERATION OF ALL PERSONS AND PARTIES FOR THE ATTAINMENT OF THESE GREAT ENDS; AND GAVE TO THE NEW PARTY THERE CONSOLIDATED THE NAME OF "REPUBLICANS", BY WHICH IT HAS SINCE BEEN KNOWN.*

Mr. Bingham was here again nominated for Governor, and Mr. Howard, against his own earnest remonstrances put in nomination for Attorney-

*"Wilson's Rise and Fall of Slave Power." Vol. 1, pp. 412-3.

*"The Republican Party," by Curtis. Vol. 1, pp. 1, and 185-192.

(NOTE: Mr. Horace Greeley suggested, by telegraph, the name of "Democratic-Republican Party," but as the Democratic party had been the authors and abettors of the measures complained of, the new party rejected even any nominal connection with them.)

General of the State. At the ensuing November election, the whole ticket was elected by a large majority, notwithstanding the earnest appeals of General Cass and other speakers from the stump, struggling against the popular current.

Mr. Howard was a member of the Committee on the Address at the first National Republican Convention held at Pittsburg, February 22, 1856. He held the office of Attorney-General of Michigan for six years, and left it January 1st, 1861. While holding that important office, his incessant labors attested his fidelity to his trust; and the published reports of the Supreme Court evince his thoroughness and talents as a lawyer. To him the state is indebted for its excellent law, known as the Registration Act, by which all voters are required to enter their names on the proper books of townships and wards.

Mr. Bingham was elected to the United States Senate in January, 1859, and died in October, 1861. On the assembling of the Legislature in January following, Mr. Howard was chosen to fill the vacancy. He was made Chairman of the Committee on Pacific Railroads,—the largest committee in the Senate,—from 1862 to 1871; was an active member of the Senate Committee on the Judiciary, and that of Military Affairs and on Private Land Claims. He gave an earnest support to all the measures for the prosecution of the war to subdue the rebellion, and was among the first to recommend the passage of the Conscription Act of 1863, being convinced that the volunteer system could not safely be relied upon as a means of recruiting and increasing the army. Every measure for supplying men and means found in him a warm supporter. He favored the principle of confiscation of the property of the rebels, and one of his most elaborate and eloquent speeches was made on that subject in April, 1862. A careful observer of the movements of parties, he early came to

the conclusion that General McClellan was acting in the interests of the anti-war portion of the Democratic party, and consequently lost all confidence in his efficiency as a commander. Influenced by this feeling, he called on President Lincoln, in company with Senator Lane of Indiana, in March, 1862, and earnestly urged the dismissal of that General from the command of the Army of the Potomac. But Mr. Lincoln thought it best, as he said, "to try Mac a little longer." He added: "Mac is slow, but I still have confidence in him." And thus McClellan was retained.

MR. HOWARD WAS AMONG THE FIRST TO FAVOR AN AMENDMENT OF THE CONSTITUTION, ABOLISHING SLAVERY THROUGHOUT THE UNITED STATES, IN THE JUDICIARY COMMITTEE OF THE SENATE, WHO REPORTED THE AMENDMENT AS IT WAS FINALLY PASSED BY BOTH HOUSES AND RATIFIED BY THE STATE LEGISLATURES. HE DRAFTED THE FIRST AND PRINCIPAL CLAUSE IN THE EXACT WORDS IN WHICH IT NOW APPEARS, (XIII Article.).

Some members of the Committee remarked despairingly, "it is undertaking too much; we cannot get it through the Legislature, or even the Houses of Congress." Mr. Howard replied with animation: "We can! Now is the time. None can be more propitious. The people are with us, and if we give them a chance they will demolish slavery at a blow. Let us try!"

In January, 1865, Mr. Howard was re-elected to the Senate for the full term commencing on the 4th of March of that year. The successes of our arms in the southwest, and the hope of converting rebels into union men there, had induced President Lincoln to send General Banks with a large force to New Orleans, and by formal instructions to invest him with authority to hold, under his own military orders, elections of members of new state conventions, to result finally in the reconstruction of the state

governments. This strange plan of reconstruction required the assent of only one-tenth of the white voters. The crudest and most unsatisfactory of all plans of reconstruction, it went into operation in Louisiana, and was, in truth, the suggestion of that stupendous plan of usurpation of the powers of Congress under pretense of reconstructing the rebel states afterwards, in the summer of 1865, attempted to be carried out by Andrew Johnson, when he became President by the assassination of Mr. Lincoln. A joint resolution for the recognition of Louisiana, organized under the military orders of General Banks, came before the Senate from the Judiciary Committee, and was the subject of animated and elaborate discussion.

Mr. Howard opposed it, and on the 25th of February, 1865, delivered a speech in which he fully and clearly demonstrated, that in the reconstruction of the seceded states the authority of Congress was supreme and exclusive, and that the executive as such was invested with no authority whatever. He insisted that by seceding from the Union, and in making war upon the Government, the rebel states became ENEMIES in the sense of the laws of nations, and thus forfeited their rights and privileges as States; that, consequently, when subdued by the arms of the Government, they were "CONQUERED", and lay at the mercy of their conquerors, for exactly the same reason as prevails in cases of international wars; that, it pertained to the law-making power of the United States, not to the President, to deal with the subjugated communities, and that Congress in its own discretion was to judge of the time and mode of re-admitting them as States of the Union. And this is the doctrine that has practically and finally prevailed, after a most gigantic struggle between the two branches of the government.

In the Reconstruction legislation of 1867 and 1868, the principles of constitutional law, thus affirmed by

Mr. Howard, were fully recognized and put into practice; for that legislation rests exclusively upon the ground that Congress, and not the President, is vested with the power of reorganizing the rebel states.

During the session of 1865-6, he served on the Joint Committee on Reconstruction, one of whose duties was to inquire and report on the condition of the rebel States. For convenience, the Committee divided them into several districts, and to Mr. Howard was assigned Virginia, North Carolina and South Carolina. The voluminous report of this Committee, containing the testimony of the numerous witnesses examined, shows the extent of their labors and the perplexing nature of the subjects committed to them.

As the principal result of their labors, they submitted to Congress a proposition to amend the Constitution, now known as the Fourteenth Article; a most important Amendment, which, after thorough discussion, in which Mr. Howard took a leading part, passed both Houses of Congress, and was submitted to the State Legislatures for ratification. Had it been ratified by the State Governments of the rebel states, inaugurated by the Executive Proclamation of Mr. Johnson, all the troubles that followed would have been averted. But that singular man and a majority of his cabinet strenuously opposed and defeated it in those bodies. The result is known. Forced to vindicate their own authority, and to prevent anarchy in those States, Congress, in March, 1867, enacted the first of that series of statutes known as the Reconstruction Acts, by which they declared those States without legal governments, and subjected them to a quasi military rule until proper state constitutions could be formed on the principle of impartial suffrage of whites and blacks, and until Congress should formally re-admit them. In the earnest struggle to up-

hold this legislation, Mr. Howard was ever at his post of duty.

He drew the Report of the Committee on Military Affairs, on the Removal of Honorable Edwin M. Stanton, Secretary of War, by President, Johnson, strongly condemning that act, and exposing Mr. Johnson's complicity in the "New Orleans Riots."

When the contest between the two branches of the Government resulted in the Impeachment of Mr. Johnson by the House of Representatives, Mr. Howard,—(who was Chairman of the Senate Impeachment Committee)—,voted the accused guilty of the high crimes and misdemeanors charged in the articles of impeachment.

He is a man of medium stature,—five feet, ten inches,—compact frame, and much power of endurance. He is an eloquent speaker and a formidable antagonist in debate. He is as exemplary in his private life as honorable in his public career.

FROM 20TH VOL. *Appendix:* MICHIGAN SUPREME
COURT REPORTS.

DEATH OF HON. JACOB M. HOWARD.

At a session of the Supreme Court, held at the Court Room, in the city of Detroit, on the seventh day of April, in the year one thousand eight hundred and seventy-one:

Present—HON. JAMES V. CAMPBELL, CHIEF JUSTICE.

HON. ISAAC P. CHRISTIANCY,
HON. BENJAMIN F. GRAVES, } ASSOCIATE JUSTICES.
HON. THOMAS M. COOLEY, }

His excellency, Gov. Baldwin; Hon. John W. Long-year, Judge of the United States District Court for the Eastern District of Michigan; Hon. Daniel Goodwin, Circuit Judge of the Eleventh Circuit; and Hon. Jared Patchin, Circuit Judge of the Third Circuit, were seated with the Justices.

ATTORNEY GENERAL MAY addressed the Court:

May it please the Court: The unpleasant duty of announcing to this honorable Court the recent death of the Hon. Jacob M. Howard has been assigned to me by the bar of the State. I am also charged with the duty of presenting to your Honors a series of resolutions, unanimously adopted at a meeting of the bar, expressing sentiments of great regret at the sudden demise of our late brother, and paying a fitting tribute of respect to his memory as a profound lawyer, erudite scholar and accomplished statesman.

Indeed, so full and complete are these resolutions, and so just in their estimate of his mental qualities, and so accurate in their analysis of the character of Mr. Howard as a man, a lawyer, and a statesman, that whatever I may say I feel will only detract from their force and effect.

The name of Jacob M. Howard is a household word in Michigan. There is no man within its

borders so poor or so ignorant who is not familiar with that name. During all its years of existence he has been one of its strong pillars of support, and has left the impression of his great mind upon its wonderful growth and prosperity. He grew up into perfect manhood within its borders, and has been closely identified with every interest tending toward its development.

No wonder, then, that he loved his adopted State, with a tenderness of affection never excelled and seldom imitated.

He was a man of mark. The stranger stopped and looked at him, and instinctively received the impression that he was in the presence of a man of great physical and mental power. He was a true man, true to his clients, true to his convictions, true to all the great and varied interests committed to his care by an intelligent and confiding constituency. He was true to his country when armed treason sought its life; and he loved his country and its institutions with a zeal that amounted to a passion.

He united the simplicity of the child with the strength of the lion. The constitution of his mind was such that he loved truth, right and justice for their own sakes, and loathed and spurned deception and fraud with a strength rarely equalled.

Amid all the rancor and hate engendered by partisan strife during the past few years, no man could honestly charge Mr. Howard with trickery or dishonesty. However much his great powers may have enriched others,—HE DIED POOR. With advantages for gain possessed by few,—commencing the practice of the law nearly 40 years ago, and acknowledged by common consent by the bar to be a leader in the profession, yet HE DIED POOR. Actively engaged in the Congress of the Nation at a time when, it is said, and sometimes believed, that others grew rich, still HE DIED POOR. Proud words

these to adorn the monument of the dead statesman. No man could desire a more fitting epitaph. They speak volumes for his honesty and indicate that whoever else may have worshiped mammon, and enriched themselves at the expense of the government, Jacob M. Howard always kept strictly within the golden rule. Indeed, like Webster, whom he strongly resembled, he cared quite too little for gold and silver and the accumulation of wealth. He worshiped at no such shrine.

With a strong mind in a sound body,—early trained to severe discipline,—and enriched by ancient and modern literature,—united with a fine presence, and a wonderful command of pure English, few men were his equals at the bar, in the forum, or on the hustings. His death is a great public loss, and will be mourned by thousands throughout the length and breadth of this continent,—and by none more sincerely than by a recently enfranchised race, whose earnest and eloquent friend he lived and died.

But I will no longer detain the Court. There are others present who can more fittingly portray the many excellent qualities of our dead friend and brother, and who are more familiar with his early history. I now have the honor to present THE RESOLUTIONS ADOPTED BY THE BAR, and in its name and behalf ask that they be spread upon the records of the Court.

RESOLVED, 1. That the members of this bar have learned with deep sorrow of the sudden death of one of their oldest associates, Jacob M. Howard, who has been suddenly smitten by death, while yet apparently in the full possession of his mental and bodily powers, after having, with pre-eminent ability, filled the highest professional and legislative positions; and that the discharge of a public duty, as well as the promptings of our private feel-

ing, lead us to attempt to give expression to our estimate of his character, capacity and services.

2. That in his long professional career, Mr. Howard exhibited great legal talent and sound and extensive learning. He came here in 1832 and soon after commenced practice. He witnessed the growth of our political institutions and of our jurisprudence. He aided in their development as a legislator. Always devoted to his clients, yet never unfair toward an opponent; well prepared on the law and the facts of his cases, he was second to no one at the bar as an effective advocate and convincing lawyer. His power of condensed, lucid, vigorous statement was remarkable. It left little for further discussion. It was in itself exposition and argument. The strength of his convictions, his earnest manner, his transparent and forcible diction, gave him great power and success. He was emphatically a strong man; of robust and massive intellect, and with corresponding physical appearance and manner of delivery. His elevation to the office of Attorney General, and his retention of it for three terms, followed naturally the accession of his party to political control. He was, as a lawyer, their foremost man, and recognized as such by general consent.

3. As a statesman he had an opportunity of exhibiting his qualities in the Legislature of this State and in Congress. He was elected to the House of Representatives, and subsequently, after an election in 1862 for the unexpired portion of Gov. Bingham's term, he was, in 1865, elected for the next full term to the Senate of the United States. There he was recognized at once as one of the ablest of its members. He was placed at the head of the Committee on the Pacific Railroad, was one of the Judiciary Committee, of the Military Committee, and also of the Committee on Private Land Claims, and of the Committee on the rebel states. In all these, as in

the discharge of his general duties as Senator, he evinced great ability and exerted great influence. His name is inseparably connected with the momentous legislation and constitutional changes of the last ten years. He was in fact, and was admitted to be, without a superior and with few peers in the Senate. His manner of speaking in public was part of his intellectual character. It was strong, terse, incisive, direct and earnest; and his delivery ever evinced sincere and deep conviction. Hence he always commanded attention and made deep impressions.

4. As a man, and a neighbor, and a friend, those who knew Mr. Howard best were most attached to him. Though apparently somewhat distant and reserved, he had a kindly and affectionate temper, and social disposition. He was confiding and unsuspecting in his intercourse with others. He was noted for strict integrity in public and private matters; and with unsurpassed opportunities for speculation and accumulating wealth, is understood to have died comparatively poor. His intellectual tastes were refined and cultivated. He was an excellent classical scholar; was conversant with the language and literature of France,* and was familiar with the best English writers, and especially with poetry and history.

Whether we regard him as a lawyer, statesman, scholar or citizen,

“He was A MAN take him for all in all.”

5. That the Attorney General of the State be requested to present these resolutions to the Supreme Court of this State, and that the District Attorney of the United States be requested to present them to the Circuit Court of the United States.

6. That the Secretary send to the family of Mr. Howard a copy of these resolutions.

*In 1847, he published a translation of “Secret Memoirs of the Empress Josephine”; two volumes.

7. That we will attend the funeral of the deceased, and wear the usual badge of mourning.

Remarks were offered by Mr. Theodore Romeyn, Mr. Levi Bishop, Mr. D. Bethune Duffield, Mr. Hovey K. Clarke and Mr. Henry M. Cheever.

THE CHIEF JUSTICE :

The Court will accede very willingly to the suggestion of the bar, and they will order the resolutions that have been presented to be spread at large upon the records, and also to be published in the next volume of their reports. But it would hardly be proper for those who have stood in such relations to Mr. Howard as we have, to stop at any mere formal expression of that sort. The sense of this bereavement has come upon us with the force of a personal sorrow. We have all of us known him,—some of us very long,—some of us very intimately. We have met him at the bar as allies, and we have met him as an antagonist; and I need not say to any of you that no better ally was ever found in the trial of a cause, and that no man need ever desire to find a more formidable antagonist. If he did not, as has been suggested, possess that sort of an intellect that would enable him to wield the slender scimeter of Saladin to sever the gauzy veil that was not worth severing, he was able to wield the ponderous battle ax of the Lion-Hearted, before which iron and steel went down like wood.

We have been honored by his personal friendship. We have felt honored in the honors that have been bestowed upon him vicariously, when he, as the representative of our State, has stood forth in a body where there are some great men, than whom he certainly was not inferior. He met none but peers there at the best. No man overshadowed his fame while he was in the United States Senate. It is well for Mr. Howard's memory that the laudations and eulogiums that have been bestowed upon him

on all sides, and by men of all beliefs, have not been indiscriminating. Indiscriminating eulogy is of very little service to any man's fame. After all that has been said by honest friends and honest foes, enough is left to show a grand, an eminent character, and one which will not become dimmer as time goes on. Such faults as Mr. Howard had were the faults which belong very naturally to a man of strong character. Such virtues as he had are possessed by few, and the eminence that he attained is not to be attained by all.

It has never seemed to me a very wise thing, nor a very appropriate thing, to speak of our American statesmen in comparison with the statesmen of other countries, or of olden times, as a second this man, or a second that man. It has always seemed to me that they are able to stand alone; and I think, as time goes on, Mr. Howard's greatness will appear still greater, in the eyes of our children than it can possibly appear in the eyes of his own generation. And if they should be unwise enough to seek for parallels and prototypes in Greek and Roman history, perhaps they may find in him something that may remind them of what Cato would have been if he had lived in later times, and in a Christian commonwealth.

When this Court received its present organization Mr. Howard was Attorney General of the State, and of course we were brought into official, and also into close personal connection with him. There was not a member of the bench, as at first organized, who was not an old acquaintance and friend, and our intercourse therefore was particularly agreeable. There were also at that time, perhaps, more than there have been since, a large number of cases of great importance, some of which had been accumulating for a considerable time,—and the amount of business that was thrown upon him in the Supreme Court was very great. He displayed,

in the treatment of those cases, those qualities which have been so freely described by the members of the bar,—qualities which showed him to be a master in the law. Nor in the treatment of those cases did those apparent defects in his intellectual character, that have been spoken of, appear as defects at all. Indeed, if he had possessed those qualities in a more marked degree, he would not have accomplished what he did accomplish in obtaining the ends of substantial justice. He was a man, as you all know, who was thoroughly grounded in the old principles of the common law; but he was no slavish admirer of a principle simply because the common law, or any branch of the law, laid it down. He had sense and judgment enough to discriminate between living principles and dead principles, and he never undertook to galvanize into life the dead principles of the law; but, holding on closer to those living principles that would apply in all ages and generations, he made the law a science of justice and of power, and turned it to good ends, and did not allow it, at least in his hands, to turn into any bad channels.

Mr. Howard's style of legal eloquence was very remarkable. He never appeared in a Court of Justice except with great gravity of demeanor, not one that was put on for the occasion, but one that was natural to a man who felt impressed with the feeling that he was a minister of Justice; and his diction was of that lofty kind that, applied to lesser subjects, would have been very inappropriate, and applied by lesser men would have had very little effect. But when behind his ponderous language, was his ponderous intellect, and when every word that he said had its meaning, and every idea came out with all the force that language could give, then those rounded periods had something of magic in them, and there was as much gained, perhaps, by that manner of his, as could be

gained by any of the aids of rhetoric that have ever been devised. But I will not suppose it necessary or desirable that I should dwell here upon these things that have come to every one's notice in his practice at the bar, and with which all who have ever known him have been very familiar. To my mind there was a side to Mr. Howard's character in which he appeared to quite as great an advantage, in which, if his example could be happily followed by those who are now coming on to the stage, I think a great deal of good might be done to this generation and many future generations. Mr. Howard was, I think, the best specimen of the natural product of American institutions, in their best form, that we ever have had amongst us. He was a man whose development was peculiarly American, and he had an utter contempt for those imported foibles which have sapped and destroyed the energy of so many republics in olden times, and which, if they were allowed to run here, as they have run there, will give us trouble enough, and give our children enough in maintaining the integrity of our institutions.

Mr. Howard was not an ascetic. He never despised the rational enjoyments of life. He never despised or underrated any embellishment or acquisition of civilized life, but only despised those enjoyments, and those recreations, and those shows and frivolities, which instead of exalting, sap and destroy the vigor of civilized life, and of all healthy existence. He did not respect that power which wealth possesses, of making display and show, whereby feeble minds might be led into mischief, and whereby domineering minds are enabled to become vested with power that they do not deserve. He did respect the uses to which wealth can be put, for private benefit, and for public advancement. But in his private life he was a model of manly simplicity, a perfect representative of what republican

institutions should bring forth. He lived plainly, he dressed plainly; he had no false dignity, as it is sometimes very carelessly called, which would lead him to regard any man except upon his own merits. He could always find pleasure and profit in associating with any man, whatever might be his station, and whatever might be his wealth or accomplishments. He was as much at home by the fireside of the poorest and plainest man, as he was in the house of luxury, and wherever he went, there was no overpowering sense of dignity attending him, but the quality which makes all men regard others, who acted as he did, as friends and companions, forgetting, for the time, that there is any difference in station or position, and remembering only those qualities that put them upon the footing of a common humanity, and give them those interests that are common to all the world, and that never die.

Mr. Howard, while he possessed this plainness, and while he despised all those things that are despicable, had a most hearty admiration for everything that could really illustrate and embellish life. As a scholar I knew no one whose reading was more extensive or select. There was no branch of scholarship that he despised or neglected. He read history and the more solid branches of reading. He did not despise works of imagination. He delighted in poetry and song; he explored, as far as was possible for a man in his busy life, all of the arcana of science, and whatever he read, and whatever he learned, he made his own and incorporated it in the store of his own knowledge. He was an enthusiastic love of music; he was an intelligent and cultivated critic of art, and no man ever enjoyed refined society more, and no man ever did a better part in performing his functions and doing his best to aid others in the enjoyment and delights of society; and although in his public acts he never lost the gravity nor the sobriety of demeanor that so well become

one engaged in great pursuits, in private life he was very genial. He had a very keen sense of humor. He enjoyed everything, in other words, that all healthy minds enjoy, and there was not a morbid spot, that I know of, in any part of Mr. Howard's existence.

In his love for his family and his friends there was something much more than is usual. His attachment to his family has more than once prevented him from taking advancement that has been offered him. It is, unless I am greatly mistaken, but a very short time since, when, purely to avoid leaving his family, he refused to accept a position, and, I am not sure but more than one position, which would have been courted by any man, and which was not beneath his ability. His proverbial attachment to his friends is well known in this community. Indeed, as has been suggested by a member of the bar, it perhaps went far enough to be a weakness; but such weaknesses are certainly not to be despised, and they show a good heart behind them. We cannot imagine that they went far enough to interfere with the dignity or the grandeur of his character, nor can any one believe that they will interfere with or lessen his fame in coming generations.

His determination, under all circumstances, so far as was in him, to bring about that which he thought ought to be brought about, was one of those features in his character which certainly deserves the highest commendation. He was always willing to bide his time. He never desired to advance things until they were ready to be advanced, but when he had once made up his mind that the end was desirable, and that it was within the possibility of things to bring that end about, no man ever saw him falter until the end was attained.

It is hardly desirable, on such an occasion as this, to recur very much to individual recollections; but

I cannot abstain from referring to one, which I think was in entire accord with his character, and one which perhaps may afford a key to a great many things that have been done by Mr. Howard, which have been criticised, and which have been praised, according as different men have viewed the same things with different prepossessions. Being a near neighbor of Mr. Howard while he was in the city, it was very common for us to spend more or less of each day together, going up and down from our respective abodes, engaged in conversation. I remember meeting him on the day when the news of the first battle of Bull Run was received. You all know very well how that struck this community. Our first regiment, the flower of our youth, all of us having many devoted friends in it, was cut down at the front. Gen. Willcox was left on the field, and his fate was uncertain, and many others to whom we were fondly attached were there, and no one could tell whether they were living or whether they were dead, whether they were free or whether they were in the hands of the enemy. The whole city was absorbed in grief. I met Mr. Howard as I came away from the telegraph office. His eyes were full of tears, and his whole frame shook with emotion. We stopped, and in a few earnest words, that he could hardly utter for his emotion, he expressed calmly and quietly his sense of the great disaster that had come upon us, and also the sorrowful conviction that he felt, that we now had work to do that would try us, in all of our fortitude, but that that work must be done and success must be pursued until it was gained. So Mr. Howard acted in all things. He was conscientiously determined in all things, to do that which he believed to be right; and whether his judgment was right or whether his judgment was wrong, in following different results, no man can say that in any of his mighty efforts he swerved for an instant from that which he believed,

at all events, to be demanded by the good of the country.

He was a man who represented better than any man I have ever known in this community, and somewhat as the lamented Mr. Lincoln did, the great popular common sense of the people. He was remarkable for reflecting that. You could almost always be sure that as an ordinary matter struck Mr. Howard, so it struck the average sense of the community, at least when passion was over, and when the time for sober reflection of those emotions and those feelings that actuated the great mass of mankind, I think that we can find in that peculiar trait of his character one very great reason for his great success. When he spoke to a jury he knew how everything would strike that jury; when he addressed a court, if that court possessed ordinary qualifications and common sense, he knew how those ideas would strike the court, and that they would understand them. When he addressed the Senate or when he addressed the larger audiences of the people of the United States, in like manner, he knew that what he said would go right home to their hearts, and that they, at all events, would appreciate and understand him, whether they did or not agree with him in that which he was seeking to bring about. And I think myself that when time has made his memory a thing of the past,—when his fame has become the property of future generations, although he may be remembered as a great man, although he may be remembered for his learning, for his eloquence, and for the qualities that have struck most admiration into the great mass of mankind, he will be still further venerated and remembered as a representative American, who valued above all other things the great and essential principles of manhood.

EXECUTIVE MANSION,

Washington, D. C., April 3rd, 1871.

My dear Mr. Howard:—

In your sudden and deep affliction it may not ease a single pain to know that we all feel deeply with you in the great bereavement, but it will make me feel better to write you a short note to tell you how much pained we all are.

The President and Mrs. Grant have both called my attention to the Nation's loss,—in the death of your honored father.

In the sadness we must remember that only the body is dead: his works will live after him, as long as republican institutions and freedom exist.

SENATOR NYE paid him a handsome tribute in our office this morning when he said, "I SAT BESIDE HIM FOR YEARS, AND WHEN IT WAS THE DARKEST AND THE LIGHTNING FLASHED THE BRIGHTEST HE WAS THE COOLEST, AND ALWAYS READY FOR AN ENEMY OR A FRIEND. HE WAS TRUE OAK."

If to know in your sadness that the hearts of others are afflicted by the same cause, can ease your heart, you will find great relief, for we all mourn the Nation's loss.

I am very truly,

Your sincere friend,

O. E. BABCOCK,

(Brig. Genl. U. S. A.)

To Mr. Hamilton G. Howard, Atty., etc.,
Detroit, Michigan.



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